

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DIANA G. KERWIN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-05-1202-M
	)	
JO ANNE B. BARNHART,	)	
Commissioner of Social Security	)	
Administration,	)	
	)	
Defendant.	)	

**ORDER**

On September 21, 2006, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this action in which plaintiff seeks judicial review of the final decision of defendant Commissioner of Social Security Administration (“Commissioner”), denying plaintiff’s application for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 416(i), 423. The Magistrate Judge recommended that the Commissioner’s decision be affirmed. The parties were advised of their right to object to the Report and Recommendation by October 11, 2006. On October 10, 2006, plaintiff filed her objections.

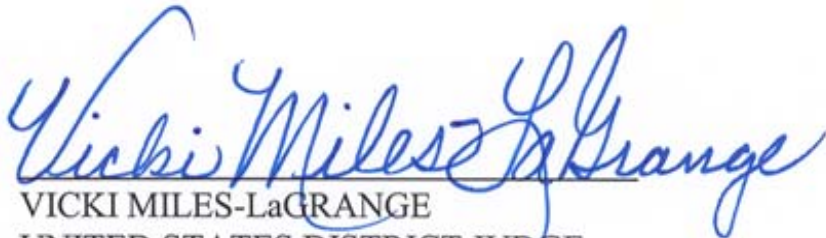
The Court has carefully reviewed the Report and Recommendation, plaintiff’s objections, plaintiff’s opening brief, the Commissioner’s response, plaintiff’s reply, and the administrative record in this case. Upon such review, the Court finds that the Commissioner’s decision should be affirmed. Specifically, while the Administrative Law Judge’s (“ALJ”) decision is inconsistent with the opinions of consultative examiners Drs. Cates and Edgar, the Court finds that the ALJ did not fail to properly evaluate their opinions. In his decision, the ALJ set forth Drs. Cates and Edgar’s opinions, but based upon plaintiff’s medical record as a whole, and particularly based upon the reports of plaintiff’s treating physicians, and based upon the ALJ’s determination regarding

plaintiff's credibility, the ALJ discounted Drs. Cates and Edgar's opinions when determining plaintiff's residual functional capacity ("RFC"). Having reviewed the record, the Court finds that the ALJ did not err when making this determination and that such determination is supported by substantial evidence. Accordingly, the Court finds that the Commissioner's decision should be affirmed.

Therefore, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on September 21, 2006, and
- (2) AFFIRMS the decision of the Commissioner.

**IT IS SO ORDERED this 31st day of October, 2006.**



VICKI MILES-LAGRANGE  
UNITED STATES DISTRICT JUDGE